

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

10-cr-134-wmc-3

VICTOR ERNEST TREJO,

Defendant.

A hearing on the probation office's petition for judicial review of Victor Ernest Trejo's probation was held on March 3, 2014, before U. S. District Judge William M. Conley. The government appeared by Assistant U. S. Attorney Peter M. Jarosz. The defendant was present in person and by counsel Reed Cornia. Also present was U. S. Probation Officer Traci L. Jacobs.

From the record, I make the following findings of fact.

FACTS

The defendant was sentenced in the Western District of Wisconsin on April 12, 2011, following his conviction for possessing, concealing and storing a stolen motor vehicle that had crossed a state boundary after having been stolen, in violation of 18 U.S.C. §§ 2313 and 2. This offense is a Class C felony. Because the court believed Mr. Trejo was, for the most part, not an active, ongoing participant in the larger conspiracy to steal heavy equipment lead by Mr. Garvey, the defendant was placed on probation for a term of three years, a sentence the court, if perhaps not the defendant, viewed as lenient at the time.

The defendant began his term of probation on April 12, 2011.

The defendant violated the special condition of his probation requiring him to provide all requested financial information. On October 10, 2011, he was directed to provide copies of his pay check stubs and credit account statements on a monthly basis and failed to do so. He further violated this condition on October 28, 2012, when he was given a financial disclosure statement to complete and return to the U.S. Probation Office and failed to do so. This not only results in an inability to assess the defendant's ability to pay, but also to assess an increasing risk of reoffending if his financial situation is deteriorating.

The defendant violated the financial condition of his conditions of probation requiring him to submit nominal restitution payments of a minimum of \$150 per month when he failed to submit a restitution payment in November 2011. He also failed to submit restitution payments in May, June, and November 2012; and in March, June and the remainder of 2013. As a result, the defendant is now in arrears between \$1,350 and \$1,500 on his nominal payments alone and the court still has no idea if he is capable of paying more.

The defendant violated Standard Condition No. 2 of his conditions of probation requiring him to submit a truthful and complete written report within the first five days of each month when he submitted his monthly supervision reports late for June, July, August, and November 2012. In 2013, he submitted his monthly supervision reports late for January, February, March, April, May, June, July, August, and October. He failed to submit monthly supervision reports for October 2012, and for November and December 2013.

The defendant's conduct falls into the category of a Grade C violation. Section 7B1.3(a)(2) of the advisory guidelines provides that the Court may revoke supervised release, extend the term of supervised release, or modify the conditions of supervision upon

a finding of a Grade C violation.

CONCLUSIONS

Although the defendant's actions demonstrate a disregard for the conditions of his probation, an alternative to revocation will be implemented.

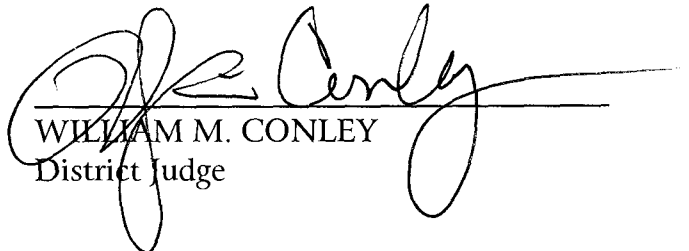
ORDER

IT IS ORDERED that the defendant is to be continued on probation. This probation term shall be extended for a period of 12 months from April 11, 2014, the defendant's original discharge date, to April 11, 2015. All standard and special conditions of probation previously imposed shall remain in effect. Additionally, defendant shall timely complete the following action steps to bring himself into compliance:

- Pay \$150 toward his restitution arrears by end of the day.
- Get a copy of all his credit card statements and deliver to his supervising probation agent by this Friday, March 7, 2014.
- Fill out, truthfully and completely, the monthly supervision report and deliver to his supervising probation agent by this Friday, March 7, 2014.
- Get a copy of all his pay stubs and deliver to his supervising probation agent by next Monday, March 10, 2014.
- Update his financial disclosure form and deliver to his supervising probation agent by next Wednesday, March 12, 2014.

Entered this 3rd day of March 2014.

BY THE COURT:


WILLIAM M. CONLEY
District Judge